

## **REMARKS**

In the Official Action mailed on **18 May 2007**, the Examiner reviewed claims 1-8, 10-18, 20-28, and 30. Claims 1-8, 10-18, 20-28 and 30 were rejected under 35 U.S.C. § 102(b) based on Gross et al. (USPN 5,764,509 hereinafter “Gross”).

### **Amendment to Allowable Material**

In the Office Action mailed 08 January 2007, Examiner objected to claims 9, 19, and 29 as being dependent on a rejected base claim, but pointed out that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant rewrote the claims 9, 19, and 29 in independent form in independent claims 1, 11, and 21, respectively, including all of the limitations of the base claim.

In the instant Office Action, Examiner maintained the rejection of the newly written independent claims arguing that “include at least one of ... *and* a signal associated with a canary performance parameter” is a Markush group. During a phone conversation on 17 July 2007, Examiner explained that the rejection was being maintained because independent claims 1, 11, and 21 did not include all the language of claims 9, 19, and 29, respectively. Examiner suggested rewriting independent claims 1, 11, and 21 to include all the language of claims 9, 19, and 29.

Applicant has rewritten claims 1, 11, and 21 to include all the language of claims 9, 19, and 29. No new matter has been added.

### **Rejections under 35 U.S.C. § 102(b)**

Claims 1-8, 10-18, 20-28 and 30 were rejected under 35 U.S.C. § 102(b) as being anticipated by Gross. As described in the preceding section, Applicant has rewritten independent claims 1, 11, and 21 to include allowable material.

Hence, Applicant asserts that the independent claims and all corresponding depending claims are allowable. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(b).

**CONCLUSION**

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

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Date: 18 July 2007

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